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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,237

12/01/2003

Paul Adams

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EXAMINER

MAPLES, JOHN S

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

10/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/725,237	Applicant(s) ADAMS ET AL.	
	Examiner John S. Maples	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/3/2008; 10/2/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19, 20 and 103-111 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-16, 19, 20, 103, 104 and 111 is/are rejected.
- 7) ☒ Claim(s) 105-110 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/2/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8, 12, 13, 15, 16, 19, 104 are rejected under 35 U.S.C. 102(e) as being anticipated by either Bullock et al.-US 2003/0082426 ('426) or Bullock et al.-US 2003/0082416. ('416) (New rejection of claim 104)

Reference is made to paragraphs 28, 35-56 of both '426 and '416 and the drawing figures of both publications. These portions disclose a fuel cell system including an information device 200 that is supported on a fuel supply for a fuel cell. Paragraph 40 sets forth some of the data stored by the information device, which information includes fuel management data, which data includes, as paragraph 43 sets forth, information regarding shut-down of the fuel cell/device as required by claim 8.

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The system also includes a system controller 126 located in the electronic device 100.

The fuel supply inherently includes a liner on the inside of the container. The fuel supply has the capability to be connectable to a pump as claim 19 requires.

Applicant's arguments have all been considered but are not deemed persuasive. Applicant sole argument is that the information storage device does not store any of the claimed information set forth in claim 8. This argument is not convincing because as set forth in paragraph 43 of both '426 and '416, if the current fuel level is zero, then the device will be disabled. The disabling means that a shut-down procedure is conducted, which feature is applicant's claimed subject matter. Even though no more details are set forth about the shut-down procedure, the currently claimed subject matter is set forth by this teaching in both '426 and '416.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the

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subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 9-11, 14, 20, 103, 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over either '426 or '416, each taken in view of Bullock et al.-US 2002/0154915 ('915), Prased et al.-US 2003/0138679 ('679) and Hanson et al.-US 2008/0072091. ('091) (New rejection with regard to claims 103, 111)

The only claimed features not taught by either '426 or '416 are the particular type of memory, the controller location, the wireless connections, the pump and the hot-swap using particular flags. The '915 publication sets forth an electrically erasable programmable read-only memory for a fuel supply and includes wireless connections. To thus incorporate the memory of '915 in the fuel cell system of either '426 or '416 would have been obvious so that the data may be easily saved, utilized and transmitted. To also utilize the wireless connections of '915 in either '426 or '416 would have been obvious for ease of use. To locate the controller within the fuel cell would have been obvious so that there would be less space occupied by the fuel cell system and the same could be used in applications requiring smaller space. The '679 publication teaches a pump in paragraph 29 for pumping fuel to a fuel cell and to include the same in either '426 or '416 would have been obvious so that fuel would reach the fuel cell in a

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more expeditious manner. Finally, the publication '091 discloses in paragraph 73 the hot-swapping of fuel cell cartridges while the system is still on. To have incorporated in the teachings of either '426 or '416 the hot-swapping of '091 would have been obvious so that the system would not have to be shut down in providing new power. The specifically claimed flags of claim 111 would have been obvious because the same are notoriously well known in this art and provide efficient code feedback.

Applicant did not specifically argue the above combination of references and so no rebuttal is necessary.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday-Friday from 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John S. Maples/

John S. Maples

Primary Examiner, Art Unit 1795

JSM/10-14-2008

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